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ILLINOIS COMMERCE COMMISSION

Citizens Utility Board )

Request for an investigation in to the current )  
structure of the Nicor Customer Select Pilot )  
Program and the Proposed Changes filed )  
August 10, 2000, Meet the Public Interest )  
Standards and Other Requirements Set Forth )  
in the Public Utilities Act. )  
220 ILCS 5/4-101; 220 ILCS 5/8-101; )  
220 ILCS 8-102. )

Docket No. 00-0620

Northern Illinois Gas Company )  
d/b/a Nicor Gas Company )

Proposed Changes to Riders 15 and 16 )  
and related provisions. )  
(Tariffs filed on August 11, 2000). )

Docket No. 00-0621

**RESPONSE OF THE NATIONAL ENERGY MARKETERS ASSOCIATION TO THE  
MOTION TO STRIKE REBUTTAL TESTIMONY**

The National Energy Marketers Association (NEM) submits this response to the Motion to Strike Rebuttal Testimony filed by Nicor Gas (Nicor) and requests that said motion be denied. NEM works with commissions across the country to address and resolve a myriad of complex restructuring issues in a competitively neutral fashion that promote price competition at the retail consumer level. NEM participates in more than fifty restructuring proceedings in fifteen jurisdictions.

The massive number of state and federal restructuring efforts currently underway in the United States makes the non-regulated private resources available to help Commissions craft competitive restructuring programs very limited. There is also an enormous disparity in resources between an incumbent monopoly, defending its market share with funds recoverable in rates, and funds available to competitive suppliers to participate actively in all the jurisdictions that are conducting proceedings simultaneously. It is particularly problematic when competitive suppliers must invest risk capital in markets that have not fully opened, may only make offerings to a limited number of customers (far short of those needed to build economies of scale) and are subject to rules and processes that impose considerable and unnecessary costs and risks with no guarantee of cost recoveries as we have here in the Nicor Pilot.

In recognition of the limited resources of competitive suppliers, other Commissions have relaxed overly formal evidentiary rules and used their discretion to accept as legally proffered, testimony offered by a witness that is available for cross examination by telecommunication bridge. Frequently, conferences, settlements, and hearings in restructuring proceedings are conducted by conference call. NEM is often required to participate in multiple states at the same time and can only do so by the use of teleconference bridges. The format of NEM's Rebuttal Testimony as well as its request to conduct cross-examination by teleconference bridge reflects a time and cost efficient strategy which is within the Commission's discretion to permit.

NEM has made a legal proffer of testimony in this proceeding, and submits that the testimony so proffered can aid the Commission and the ratepayers in Illinois by developing a full and fair record and by offering the experience gained by competitive supplies in virtually every single

market that has opened to competition to date. Unfortunately, NEM's witness has been scheduled to address a NARUC committee on Technology and Finance on February 28 on the National Energy Technology Policy Document proffered in its testimony and has offered to provide a telecommunications bridge for cross examination prior to the hearing date so as not to disrupt the hearing.

Additionally, NEM submits the following arguments in opposition to Nicor's Motion to strike:

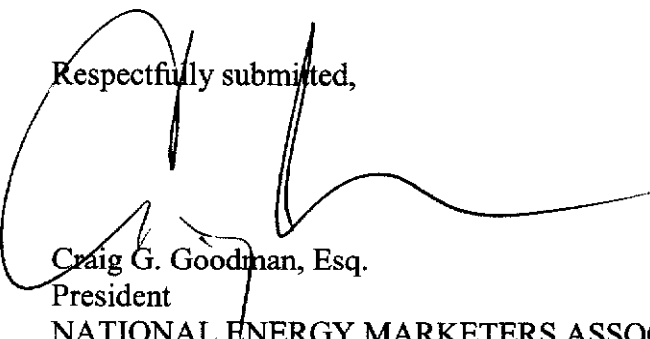
1. NEM has offered rebuttal testimony in this proceeding to address several specific and significant defects in the NICOR pilot, including affiliate rules, storage and curtailment issues, supplier ability to bill customers, and bill formats. The Rebuttal Testimony submitted by NEM incorporated by reference its National Policy Guidelines entitled, "***Uniform Code of Conduct for Regulated and Unregulated Suppliers of Energy and Related Services and Technologies***," "***National Guidelines for Unbundling and Restructuring the Natural Gas Distribution Function***," and "***National Energy Technology Policy***." By proffering its National Policy Guidelines for the record, NEM has offered into the record the consensus opinion of a broad, regionally diverse group of competitive market participants on specific resolution of the issues presented in the Nicor pilot. The failure to admit NEM's Rebuttal Testimony incorporating these Guidelines will deprive the Commission of the benefit of a full record upon which to rule and the nationwide experience of NEM's members with regard to specific issues related to the Nicor Gas program. NEM also notes that this Commission has previously taken judicial notice of an early draft of NEM's, "***Uniform Code of Conduct for Regulated and Unregulated Suppliers of Energy and Related Services and***

the cross-examination could be conducted without imposing a disruption at the actual hearing.

4. Lastly, NEM submits that additional data requests by Nicor are unnecessary as all the documentation supporting NEM's testimony was attached thereto and incorporated therein by reference. Moreover it is NEM's position that said documents are clear on their face and speak for themselves.

WHEREFORE, for the reasons explained above, NEM respectfully requests that the Commission deny Nicor Gas' Motion to Strike.

Respectfully submitted,



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Dated: February 15, 2001.

**CERTIFICATE OF SERVICE**

I, Craig G. Goodman, certify that on the 15<sup>th</sup> day of February, 2001, I served a copy of the Response to Motion to Strike Rebuttal Testimony by first class mail and e-mail, from Washington, D.C., postage prepaid to the individuals on the service list attached.



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